

**Amend Section 87455 to read:**

**87455 Acceptance and Retention Limitations.**

**87455**

- (a) (Continued)
- (b) The following persons may be accepted or retained in the facility: (Continued)
  - (8) Persons who have been diagnosed as terminally ill and who have obtained the services of hospice, certified in accordance with federal medicare conditions of participation and licensure, provided the licensee has obtained a facility hospice care waiver in accordance with the provisions of Section 87632, Hospice Care Waiver, and hospice care is being provided in accordance with the provisions of Section 87633, Hospice Care for Terminally Ill Residents.
- (c) (Continued)
- (d) (Continued)

**HANDBOOK BEGINS HERE**

Health and Safety Code section 1569.73(a) provides in relevant part:

- "(a) ~~Notwithstanding~~ Notwithstanding Section 1569.72 or any other provision of law, a residential care facility for the elderly may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician and surgeon to remain in the facility, or allowing a person who has been diagnosed as terminally ill by his or her physician and surgeon to become a resident of the facility if that person is already receiving hospice services and would continue to receive hospice services without disruption if he or she became a resident, when all of the following conditions are met:
- (1) The facility agrees to retain the terminally ill resident, or accept as a resident the terminally ill person, and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.
- (2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).
- (3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.

- (4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.
- (5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter..."

**HANDBOOK ENDS HERE**

Authority cited: Sections 1569.30 and 1569.698, Health and Safety Code.

Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.699, ~~and~~ 1569.72 and 1569.73, Health and Safety Code.

**Amend Section 87465 to read:**

**87465      Incidental Medical and Dental Care Services.**  
(Continued)

**87465**

(f) (Continued)

(g) The licensee shall immediately telephone 9-1-1 if an injury or other circumstance has resulted in an imminent threat to a resident's health including, but not limited to, an apparent life-threatening medical crisis except as specified in Sections 87469(c)(2), ~~or~~ (c)(3), or (c)(4).

(h) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312 and 1569.73, Health and Safety Code.

Amend Section 87469 to read:

**87469 ~~Advanced Health Care Directives, Requests to Forego Resuscitative Measures, and Do Not Resuscitate Forms~~**  
**Advance Directives and Requests Regarding Resuscitative Measures.**

- (a) Upon admission, a facility shall provide each resident, and representative or responsible person of each resident, with written information about the right to make decisions concerning medical care. This information shall include, but not be limited to, the ~~Department's~~ approved brochure entitled "Your Right To Make Decisions About Medical Treatment," PUB 325, (~~3/99~~ 3/12) and a copy of Sections 87469(b), ~~and (c) and (d)~~ of the regulations.
- (b) (Continued)
- (c) If a resident who has ~~a Request to Forego Resuscitative Measures, and/or an Advance Health Care Directive and/or a DNR~~ an advance directive and/or request regarding resuscitative measures form on file experiences a medical emergency, facility staff shall do one of the following:
  - (1) Immediately telephone 9-1-1, present the ~~Request to Forego Resuscitative Measures, Advance Health Care Directive and/or DNR~~ advance directive and/or request regarding resuscitative measures form to the responding emergency medical personnel and identify the resident as the person to whom the order refers.
  - (2) Immediately give the ~~Request to Forego Resuscitative Measures, and/or Advance Health Care Directive and/or DNR~~ advance directive and/or request regarding resuscitative measures form to a physician, registered nurse or licensed vocational nurse if the physician or nurse is in the resident's presence at the time of the emergency and assumes responsibility.
  - (3) Specifically for a terminally ill resident that is receiving hospice services and has completed an advance directive and/or request regarding resuscitative measures form pursuant to Health and Safety Code section 1569.73(c), and is experiencing a life-threatening emergency as displayed by symptoms of impending death that is directly related to the expected course of the resident's terminal illness, the facility may immediately notify the resident's hospice agency in lieu of calling emergency response (9-1-1). For emergencies not directly related to the expected course of the resident's terminal illness, the facility staff shall immediately telephone emergency response (9-1-1).
  - (~~34~~) Facilities that employ health care providers, other than Home Health Agencies or Hospice Agencies, may comply with Health and Safety Code Section 1569.74.
- (d) After following the procedure in Section 87469(c)(1), (2), ~~or (3), or (4)~~, facility staff shall notify the resident's hospice agency and ~~health care surrogate decision maker~~ Health

Care Surrogate Decision Maker, if applicable.

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Health and Safety Code section 1569.73(c) provides in relevant part:

- "(c) A facility that has obtained a hospice waiver from the department pursuant to this section need not call emergency response services at the time of a life-threatening emergency if the hospice agency is notified instead and all of the following conditions are met:
- (1) The resident is receiving hospice services from a licensed hospice agency.
  - (2) The resident has completed an advance directive, as defined in Section 4605 of the Probate Code, requesting to forego resuscitative measures.
  - (3) The facility has documented that facility staff have received training from the hospice agency on the expected course of the resident's illness and the symptoms of impending death."

Health and Safety Code section 1569.74 provides in relevant part:

- "(a) Licensed residential care facilities for the elderly that employ health care providers may establish policies to honor a request to forego resuscitative measures as defined in ~~subdivision (b)~~ of Section 4753 4780 of the Probate Code.
- (b) (Continued)
- (c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident's request to forego resuscitative measures as provided for in subdivision (a) may only be taken ~~by a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.~~" in either of the following ways:
- (1) By a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.
  - (2) By notifying, under those conditions specified in subdivision (c) of Section 1569.73, the hospice agency that is caring for a resident receiving hospice services.
- (d) Licensed residential care facilities for the elderly that have not established policies pursuant to subdivision (a) may keep an executed request to forego resuscitative measures form in the resident's file and present it to an emergency medical technician or paramedic when authorized to do so in writing by the resident or his or her legally recognized surrogate decisionmaker. The request may be honored by an emergency medical technician or by any health care provider as defined in Section 4621 of the Probate Code, who, in the course of professional or volunteer duties, responds to emergencies."

Probate Code section 4780 provides in relevant part:

(a) As used in this part:

- (1) “Request regarding resuscitative measures” means a written document, signed by (A) an individual with capacity, or a legally recognized health care decisionmaker, and (B) the individual’s physician, that directs a health care provider regarding resuscitative measures. A request regarding resuscitative measures is not an advance health care directive.
- (2) “Request regarding resuscitative measures” includes one, or both of, the following:
  - (A) A prehospital “do not resuscitate” form as developed by the Emergency Medical Services Authority or other substantially similar form.
  - (B) A Physician Orders for Life Sustaining Treatment form, as approved by the Emergency Medical Services Authority.
- (3) “Physician Orders for Life Sustaining Treatment form” means a request regarding resuscitative measures that directs a health care provider regarding resuscitative and life-sustaining measures.

**HANDBOOK ENDS HERE**

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.73, 1569.74, and 1569.156, Health and Safety Code; and Sections 4621 ~~4753~~ and ~~4670~~ 4780, Probate Code.

**Amend Section 87615 to read:**

**87615 Prohibited Health Conditions.**

**87615**

- (a) ~~In addition to Section 87455(e), the following p~~Persons who require health services for or have a health condition including, but not limited to, those specified below shall not be admitted or retained in a residential care facility for the elderly:
- (1) Stage 3 and 4 pressure sores (dermal ulcers).
  - (2) Gastrostomy care.
  - (3) Naso-gastric tubes.
  - (4) Staph infection or other serious infection.
  - (5) Residents who depend on others to perform all activities of daily living for them as set forth in Section 87459, Functional Capabilities.
  - (6) Tracheostomies.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.312 and 1569.72, Health and Safety Code.

**Amend Section 87616 to read:**

**87616 Exceptions for Health Conditions.**

**87616**

- (a) (Continued)
- (b) (Continued)
- (c) Facilities that have satisfied the requirements of Section 87632, Hospice Care Waiver, are not required to submit written exception requests under this section for residents or prospective residents with restricted health conditions under Section 87612 and/or prohibited health conditions under Section 87615 provided those residents have been diagnosed as terminally ill and are receiving hospice services in accordance with a hospice care plan as required under Section 87633, Hospice Care for Terminally Ill Residents, and the treatment of such restricted and/or prohibited health conditions is specifically addressed in the hospice care plan.

**HANDBOOK BEGINS HERE**

Health and Safety Code section 1569.73(a) provides in relevant part:

- "(a)(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).
- (3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident, or the terminally ill person to be accepted as a resident and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.
- (4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.
- (5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter."



**HANDBOOK ENDS HERE**

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1250, 1569.2(a), (e) and (j), 1569.31, ~~and~~ 1569.312, 1569.72(a) and (a)(1) and 1569.73, Health and Safety Code.

**Amend Section 87632 to read:**

**87632 Hospice Care Waiver.**

**87632**

- (a) In order to accept or retain terminally ill residents and permit ~~then~~ them to receive care from a hospice agency, the licensee shall have obtained a facility hospice care waiver from the Department. To obtain this waiver the licensee shall submit a written request for a waiver to the Department on behalf of any future residents who may request retention, and any future residents who may request acceptance, along with the provision of and hospice services in the facility. The request shall include, ~~but~~ but not be limited to the following:
- (1) (Continued)
  - (2) (Continued)
  - (3) (Continued)
  - ~~(4)~~ A written statement from the licensee that hospice services will only be provided to individuals who are residents of the facility or to prospective residents already receiving hospice services, prior to the initiation of hospice services in the facility.
  - ~~(5)~~ (4) A statement by the licensee that ~~The licensee has entered into~~ an agreement with the hospice agency will be entered into regarding the care plan for the terminally ill resident to be accepted and/or retained in the facility. The agreement with hospice care plan shall be designed and to provide for the care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility licensee.
- (b) (Continued)
- (c) (Continued)
- (d) If the Department grants a hospice care waiver it shall stipulate terms and conditions of the waiver as necessary to ensure the well-being of terminally ill residents and of all other facility residents, which shall include, but not be limited to, the following requirements:
- (1) A written request shall be signed by each terminally ill resident or prospective resident upon admission, or by the resident's or prospective resident's health care surrogate decision maker to allow for his or her acceptance or retention in the facility while receiving hospice services.
    - (A) (continued)
  - (2) The licensee shall notify the Department in writing within five working days of the initiation of hospice care services in the facility for any terminally ill resident accepted or retained in the facility in the facility or within five working days of

admitting a resident already receiving hospice care services. The notice shall include the resident's name and date of admission to the facility and the name and address of the hospice.

- (e) Within 30 days of receipt of an acceptable request for a hospice care waiver, the ~~D~~department shall notify the applicant or licensee, in writing of one of the following:
  - (1) The request ~~with substantiating evidence~~ has been ~~received and accepted for consideration~~ approved or denied.
  - (2) (Continued)
    - (A) (Continued)
  - (3) ~~Within 30 days of receipt of an acceptable request for a waiver, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.~~
- ~~(f) The Department shall not be responsible for the evaluation of medical services provided to the terminally ill resident under the hospice plan, and the Department shall have no liability for the independent acts of the hospice.~~

### **HANDBOOK BEGINS HERE**

Health and Safety Code section 1569.73 provided in relevant part:

- "(a)(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).
- (3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.
- (4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.
- (5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks allowed under this chapter...

- (d) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly as defined in this act, nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident or allow a terminally ill person to become a resident of the facility as authorized by this section.
- (e) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter...
- (g) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice..."

**HANDBOOK ENDS HERE**

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.10, 1569.11, 1569.15, 1569.31, 1569.312, 1569.54 and 1569.73, Health and Safety Code.

**Amend Section 87633 to read:**

**87633 Hospice Care for Terminally Ill Residents.**

**87633**

- (a) The licensee shall be permitted to accept or retain ~~terminally ill~~ residents who have been diagnosed as terminally ill by his or her physician and surgeon and who may or may not have restrictive and/or prohibited health conditions, to reside in the facility and receive hospice services from a hospice agency in the facility, ~~if~~ when all of the following conditions are met:
- (1) (Continued)
  - (2) (Continued)
  - (3) Hospice agency services are contracted for by each terminally ill resident or prospective resident individually, or the resident's or prospective resident's Health Care Surrogate Decision Maker if the resident or prospective resident is incapacitated, not by the licensee on behalf of a resident or prospective resident. These hospice agency services must be provided by a hospice agency both licensed by the state and certified by the federal Medicare program.
  - (4) A written hospice care plan which specifies the care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility is developed for each terminally ill resident or prospective resident by that resident's hospice agency and agreed to by the licensee and the resident, or prospective resident, or the resident's or prospective resident's Health Care Surrogate Decision Maker, if any, prior to the initiation of hospice services in the facility for that resident, and all hospice care plans are fully implemented by the licensee and by the hospice(s).
  - (5) The acceptance or retention of any terminally ill resident or prospective resident in the facility does not represent a threat to the health and safety of any facility resident, or result in a violation of the personal rights of any facility resident.
  - (6) The hospice agency and the resident or prospective resident agree to provide the licensee with all information necessary to allow the licensee to comply with all regulations and to assure that the resident's or prospective resident's needs ~~are~~ will be met. (Continued)
- (h) For each terminally ill resident receiving hospice services in the facility, the licensee shall maintain the following in the resident's record:
- (1) A written request for acceptance or admittance to or ~~The resident's or the resident's Health Care Surrogate Decision Maker's written request for retention and hospice services~~ in the facility while receiving hospice services, along with any ~~Advance~~

~~Health Care Directive, Request to Forego Resuscitative Measures, and/or Do Not Resuscitate Form~~ advance directive and/or request regarding resuscitative measures form executed by the resident or (in certain instances) the resident's Health Care Surrogate Decision Maker. (Continued)

- (5) A statement signed by the resident's roommate, if any, or any resident who will share a room with a person who is terminally ill to be accepted or retained as a resident, indicating his or her acknowledgment that the resident intends to receive hospice care in the facility for the remainder of the resident's life, and the roommate's voluntary agreement to grant access to the shared living space to hospice caregivers, and the resident's support network of family members, friends, clergy, and others.

(A) (Continued)

(i) (Continued)

- (j) A written health condition exception request and approval from the Department in accordance with Section 87616, is not needed for any of the restricted health conditions listed in Section 87612, Restricted Health Conditions, or for any prohibited health conditions listed in Section 87615, Prohibited Health Conditions, provided the resident or prospective resident has been diagnosed as terminally ill and is currently receiving hospice care; in compliance with Section 87633, Hospice Care for Terminally Ill Residents, and the treatment of the restricted and/or prohibited health conditions is addressed in the hospice care plan.

(1) (Continued)

(k) (Continued)

- (l) Residents receiving hospice care or prospective residents already receiving hospice care when accepted as residents who are bedridden, may reside in the facility provided the facility meets the requirements of Section 87606, Care of Bedridden Residents.

### **HANDBOOK BEGINS HERE**

Health and Safety Code section 1569.73(h) provides in summary:

"Nothing in this section [which deals with terminally ill residents and hospice care] shall be construed to relieve a licensed residential care facility for the elderly of its responsibility to notify the appropriate fire authority of the presence of a bedridden resident in the facility as required under subdivision (f) of Section 1569.72 and to obtain and maintain a fire clearance as required under Section 1569.149."

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(m) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, 1569.72 and 1569.73, Health and Safety Code.